

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
Case No. 3:16-cv-00311**

UNITED STATES OF AMERICA and the
STATE OF NORTH CAROLINA,

Plaintiffs,

v.

THE CHARLOTTE-MECKLENBURG
HOSPITAL AUTHORITY d/b/a
CAROLINAS HEALTHCARE SYSTEM,

Defendant.

**DEFENDANT’S MOTION TO EXCLUDE
OR ALTERNATIVELY TO STRIKE
EXTRANEOUS MATERIALS
SUBMITTED BY PLAINTIFFS IN
OPPOSITION TO DEFENDANT’S
MOTION FOR JUDGMENT ON THE
PLEADINGS**

The Defendant, the Charlotte-Mecklenburg Hospital Authority, pursuant to Fed. R. Civ. P. 12(d) and 12(f), moves to exclude from consideration, or in the alternative to strike from the pleadings, materials submitted by the Plaintiffs in connection with their Opposition to the Defendant’s Motion for Judgment on the Pleadings (the “Opposition”) (Doc. No. 25). The grounds for this Motion are that the materials submitted as **Exhibit 2** to the Plaintiffs’ Opposition (Doc. No. 25-3) constitute materials outside the scope of the pleadings and which in no way were integral to or contained within the pleadings. Consequently, such materials must be excluded from consideration pursuant to Rule 12(d) or should be stricken as immaterial pursuant to Rule 12(f). If the Plaintiffs believe these materials were necessary to the Court’s consideration of the Motion for Judgment on the Pleadings, the Plaintiffs should have sought leave of the Court to amend their Complaint rather than simply submitting immaterial and extraneous matters in violation of the Rules of Civil Procedure.

In support of this Motion, the Defendant contemporaneously submits a Memorandum of Law.

WHEREFORE, the Defendant requests that this Court exclude from consideration the materials submitted as **Exhibit 2** to the Plaintiffs' Opposition (Doc. 25-3) or, alternatively, strike their inclusion from the pleadings in this matter.

This 21st day of September 2016.

/s/ Debbie W. Harden

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this the 21st day of September 2016, the foregoing **Defendant's Motion to Exclude or Alternatively to Strike Extraneous Materials Submitted by Plaintiffs in Opposition to Defendant's Motion for Judgment on the Pleadings** was served via the Court's CM/ECF system as follows:

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